

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Suits – L.A. – Kurnool District – Atmakur (M) – Indireswaram (V) Land Acquired for formation of new Tank across Padmaraju Vagu near Indireswaram (V) – E.P.No.329/2002 in O.P.No.882/92 – Filing of Review Petition in Supreme Court of India, New Delhi –Orders Issued

IRRIGATION & C.A.D.(PW-LA.II) DEPARTMENT

G.O.Rt.No. 865

Dated: 5-11-2009

Read the following:

1. From the Chief Commr. Of Land Administration, A.P.,Hyderabad Lr.No.G4/2674/2004, dated 30-12-2006 Addressed to the District Collector, Kurnool and copy marked to Govt. and 30.4.2009
2. From the Revenue Divisional Officer, Kurnool Lr.No.SR. No.1/1997, dated 2-5-2007 and 20.5.2009 addressed to the District Collector, Kurnool and copy submitted to the Secretary to Government, Irrigation & CAD Department.
3. From the Dist.Collector, KurnoolLr.Rc.G1.343 dt.18-3-2009 and 09-04-2009.

ORDER:

The District Collector, Kurnool and Chief Commissioner of Land Administration of A.P. Hyderabad in the references 1 st to 3 rd read above, has stated that an extent of Ac.9.64 was acquired for formation of M.I.Tank across Padmaraju Vagu near Indireswaram (V) of Atmakur(M) vide Award No. 3/91 on 7-4-1991. The L.A.O.-cum-R.D.O. fixed the Market Value @Rs.10,000/- p.a. at the time of acquisition of land. There were eucalyptus trees in the entire land. The D.F.O., Social Forestry has physically verified the trees and found that there were 26,992 trees. And the L.A.O., allowed all the benefits under the Land Acquisition Act 1984. Dis-satisfied with the Award by the L.A.O., the Respondent here in sought for a reference U/S.18 of the L.A.Act to refer the matter to Civil Court for adjudication of market value. Accordingly the matter was referred to the Civil Court. The Sr.Civil Judge, Atmakur confirmed the market value fixed by the L.A.O.-cum R.D.O. @Rs.10,000/- p.a. But the Sr.Civil Judge, Atmakur enhanced the market value of each eucalyptus tree value @Rs.122.60 per tree. Hence the tree in Ac.9.64 is accounted at 26,992 and Sr.Civil Judge, Atmakur delivered the judgment & decree in LA OP No. 882/92 on 17-4-1997. The L.A.O.-cum-R.D.O. filed an appeal before the Hon'ble High Court of A.P., Hyderabad on 23-6-1997 as the enhancement was very high. Further the Hon'ble High Court while granting stay directed the petitioner to pay 50% against the enhanced compensation with statutory benefits to be deposited within 8 weeks from the date of order in A.s.No.735/1997, dt.9-9-1999. The Govt. have accorded sanction for an amount of Rs.41,64,857/- being 50% of the decretal amount for depositing in the same court, Atmakur as per the interim orders of the High Court of A.P., Hyderabad in CMP.No.13579/1998 in A.S.No.735/1997 in LA OP.No.882/1992 in E.P.No.22/1997 for the above work for formation of New M.I.Tank across Padmaraju vagu near Indireswaram (V) of Atmakur (M) of Kurnool District vide G.O.Rt.No.1617, I&CAD (Irrg.III) Deptt. Dt.19-12-1997.

2. The Collector, Kurnool District has also stated that the L.A.O.-cum, R.D.O. Kurnool deposited the said amount Rs.41,64,857/- on 31-12-1997 in the Sr.Civil Judge Court, Atmakur on dt.31-12-1997 in the Sr.Civil Judge Court, Atmakur on dt.31-12-1997 and the Hon'ble High Court of A.P. Hyderabad dismissed the said appeal on 28-08-1998 confirming the Lower Court order in A.S.No.735/1997, dt.25-9-1997.As per the advise/opinion of Advocate General the matter was taken to the Supreme Court by way of SLP No.CC.No.5124/2000, the same was dismissed on 4-9-2000. The SLP was dismissed for delay and not on merits. In the mean while the DHR filed E.P.No.329/2002 in LAOP No.882/1992 dt.16-10-2002 for realization of balance decretal amount for attachment of the Govt. properties i.e. Mandal /Revenue Office, H.No.2-11-8, R&B Guest House H.No.1-114/1 Divisional Forest Office & Social Forestry Office-not noted under order 21 Rule 11,43,54 & 66 of CPC.

(P.T.O)

3. The Collector, Kurnool District has informed that the L.A.O.-cum-R.D.O., Kurnool has submitted for sanction of decretal charges. Basing on this, the District Collector, Kurnool submitted proposals to the Government for Rs.68,59,018/- for sanction of the decretal amount to the E.P. amount payable to the DHR. The Government accorded sanction for an amount of Rs.40,03,616/- towards decretal charges in E.P.No.329/2002 in LAOP No.882/1992 of Indiresaram (V) of Atmakur (M) in CMP No.13579/1997 in A.S.No.735/1997 vide G.O.RT.No.200 I&CAD(IRR.G.) Deptt. Dt.22-12-2004 The above said amount of Rs.40,03,616/- was deposited in the Sr.Civil Judge Court, Atmakur on 17-01-2005. And again the District Collector, Kurnool has submitted proposals for Rs.27,18,055/- to the Government for sanction of decretal amount to the credit of O.P. vide Rs.G1/343/1988, dt.13-10-2005. Accordingly Govt. have accorded sanction an amount of Rs.27,18,055/- towards balance decretal amount to be deposited in the same court to the credit of LAOP No.882/1992 in E.P.No.329/2002 Indiresaram (V) of Atmakur (M) of Kurnool District vide G.O.Rt.No.800 I&CAD (P.W.-LA.II) Deptt. Dt.15-10-2005. The LAO-cum-RDO, Kurnool has deposited the said amount of Rs.27,18,055/- in the same court of Atmakur on dt.30-10-2005.

4. The Government Pleader for Arbitration High Court of A.P., Hyderabad has informed that the CRP No.5454/2006 against EA.No.867/2005 in E.P.No.329/2002 in LAOP No.882/1992 came up for admission on 3-11-2006, before the Hon'ble High Court and the Court granted stay on condition to deposit entire amount with in 2 weeks let the stay stands vacated and the claimant can entitle the decree on 9-11-2006 and permitting to withdraw Rs.5,91,948/- by the respondent on 03-11-2006. The same matter was informed the Collector for sanction of the decretal amount of Rs.5, 91,948/- for depositing in the Court. The District Collector, Kurnool has submitted proposals to the Government for sanction of amount of Rs.5,91,948/- for depositing of the same in the court.

5. The Govt. have not sanctioned the said amount, even till today as per the permission granted by the Collector, Kurnool to utilize the available funds of Varadharaju Swamy Project (VRSP) vide Challan No.1377 dt.25-08-2004 total an amount of Rs.52,18,051/- out of which 5,91,948/- was withdrawn for depositing of the decretal amount vide RDO's Office proceedings dt.21-11-2006. The said amount was deposited in the same court on 17-11-2006. The Government Pleader for Arbitration High Court of A.P., Hyderabad sent certified copy judgment in CMRP.No.7524/2006 in CRP No.5454/2006 order dt.26-12-2006 in its order as claimed in EA as well as in the EP are treated as fully satisfied with the deposit of amount of Rs.5,91,948/- as ordered by the Executing Court and the said amount laying to the credit of EP also permitted to be withdrawn by the respondent/DHR without furnishing any security. The Civil Revision Petition is accordingly disposed of recording full satisfaction of the claim made in and EA & EP.

6. The District Collector, Kurnool has requested to the CCLA to recommend budget proposals to Government for an amount of Rs.26,81,257/- towards balance decretal charges in LAOP No.882/1992 (E.P.No.329/2002) of Indireswaram (V) of Atmakur (M) to avoid further legal complication as well as further interest and in view of sale proclamation of R&B Guest House, Atmakur on 17-10-2008.

7. After careful examination of the matter Government hereby accord sanction for an amount Rs. 26,81,257/- (Rupees Twenty six lanks Eighty one thousand and Two hundred and Fifty seven only) towards balance decretal charges to avoid further legal complications in respect of OP No. 882/92 (EP No. 329/02) pertaining to Indireswaram Village, Atmakur Mandal, Kurnool District subject to verification whether the reference under section 18 (1) of the L.A. Act is made to the Lower Court after following all the guidelines/directions on the subject and in case it is detected that Section 18 reference was made contrary to the rules/guidelines issued by the Government/Special Chief Secretary to Government and Chief Commissioner for Land Administration, Andhra Pradesh, Hyderabad immediate action should be taken to recover the loss sustained by the Government from the staff concerned and filing of restitution petition and also subject to confirmation of the Chief Engineer as to the extent of land acquired. Further, the District Collector, Kurnool should verify the calculations made by the Land Acquisition Officer once again thoroughly with reference to the decree and instructions issued by the Government/Special Chief Secretary to Government and Chief Commissioner for Land Administration, Andhra Pradesh, Hyderabad on the subject from time to time duly deducting the Income Tax as per rules before depositing the amount in Lower Court.

8. The District Collector, Kurnool is directed to follow the directions issued by the Hon'ble High Court on 30.4.2007 in W.P.No. 2181 of 2005 in disbursement of the above sanctioned decretal charges to the rightful claimants of O.P.No. 882/92 for avoiding intervention of the middlemen.

9. The expenditure sanctioned above may be debited to the Head of Account under 4702-COL on M.1-M.H.(101) - Surface Water - G.H - (11) Normal State Plan-S.H(12) O&R M.I.Sources- 530 - Major works- 532 - Lands(charged)

10. This Order is issued with the concurrence of Finance (Exp.PW.I) Department vide their U.O.No. 24659/947/Exp.PW.1/09, Dt: 24.9.2009

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.P.TUCKER
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Secretary to the C.C.L.A. A.P.Hyderabad
The District Collector, Kurnool
The Chief Engineer, Minor Irrigation, Hyderabad
The Revenue Divisional Officer, Kurnool
The Superintending Engineer, I & CAD, Kurnool
The Director of I Works & Accounts, Hyderabad
Copy to
P.S. to Minister (M&MI)
Law Department/Finance(Exp.PWI) Department
C.No. 4170/L.A.II/A2/2001
S.F/S.Cs

//FORWARDED BY ORDER//

SECTION OFFICER